

**In the United States Court of Federal Claims**  
**OFFICE OF SPECIAL MASTERS**  
**No. 15-1076V**  
**(Not to be Published)**

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JAMES H. DALY,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

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Special Master Corcoran

Filed: February 2, 2017

Decision; Attorney's Fees and Costs;  
Influenza ("Flu") Vaccine;  
Brachial Plexopathy.

*Kristin M. Cafferty*, Habush, Habush & Rottier, S.C., Racine, WI, for Petitioner.

*Ann D. Martin*, U.S. Dep't of Justice, Washington, DC, for Respondent.

**ATTORNEY'S FEES AND COSTS DECISION<sup>1</sup>**

On September 25, 2015, James H. Daly filed a petition seeking compensation under the National Vaccine Injury Compensation Program ("Vaccine Program").<sup>2</sup> Petitioner alleged that the influenza vaccine that he received on October 2, 2013, caused him to suffer from brachial plexopathy. *See* Petition at 1 (ECF No. 1). The parties filed a stipulation for damages on August 16, 2016 (ECF No. 19), which I adopted by decision dated August 18, 2016. ECF No. 20.

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<sup>1</sup> Although I have not designated this decision for publication, because it contains a reasoned explanation for my actions in this case, it will nevertheless be posted on the United States Court of Federal Claims website, in accordance with the E-Government Act of 2002, 44 U.S.C. § 3501 (2012). As provided by 42 U.S.C. § 300aa-12(d)(4)(B), however, the parties may object to the published decision's inclusion of certain kinds of confidential information. Specifically, under Vaccine Rule 18(b), each party has fourteen days within which to request redaction "of any information furnished by that party: (1) that is a trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy." Vaccine Rule 18(b). Otherwise, the whole decision will be available to the public. *Id.*

<sup>2</sup> The Vaccine Program comprises Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3758, codified as amended at 42 U.S.C. §§ 300aa-10 through 34 (2012) ("Vaccine Act" or "the Act"). Individual section references hereafter will be to § 300aa of the Act (but will omit that statutory prefix).

Petitioner has now filed a motion requesting final attorney's fees and costs, dated February 2, 2017. *See* ECF No. 25. Petitioner requests reimbursement of attorney's fees and costs in the combined amount of \$16,469.62 (representing \$11,387.50 in attorney's fees, plus \$5,082.12 in costs). *Id.* In addition, and in compliance with General Order No. 9, Petitioner represents that he incurred no litigation-related expenses in conjunction with this proceeding. *Id.* Petitioner's motion certifies that Respondent reviewed his fees request and indicated that he has no opposition to it. *Id.*

I approve the requested amount for attorney's fees and costs as reasonable. Accordingly, an award of \$16,469.62 should be made in the form of a check payable jointly to Petitioner and Petitioner's counsel, Kristin M. Cafferty, Esq. Payment of this amount represents all attorney's fees and costs available under 42 U.S.C. § 300aa-15(e). In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the Court **SHALL ENTER JUDGMENT** in accordance with the terms of Petitioner's motion.<sup>3</sup>

**IT IS SO ORDERED.**

/s/ Brian H. Corcoran  
Brian H. Corcoran  
Special Master

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<sup>3</sup> Pursuant to Vaccine Rule 11(a), the parties may expedite entry of judgment by each filing (either jointly or separately) a notice renouncing their right to seek review.